TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE

FISCAL NOTE

SB 13 – HB 336

April 8, 2021

SUMMARY OF BILL: Decreases, from $500,000 to $100,000, the required amount of capital investment made by a business in an "adventure tourism district" to qualify for a franchise and excise job tax credit. Decreases, from 20 to 10, the required number of jobs created by a business in an adventure tourism district in a tier three enhancement county to qualify for a franchise and excise job tax credit. Decreases, from 10 to 5, the required number of jobs created by a business in an adventure tourism district in a tier four enhancement county to qualify for a franchise and excise job tax credit. Requires the Commissioner of the Department of Revenue to only grant the tax credits if it is determined that the credit is in the best interest of the state. Removes the tax exemption parameters provided for by the proposed legislation on July 1, 2027. Terminates tax exemptions as authorized under Tenn. Code Ann. § 67-4-2108(b)(2)(C) for any businesses applying on or after July 1, 2027.

ESTIMATED FISCAL IMPACT:

Foregone State Revenue – $56,500/FY21-22
$113,000/FY22-23
$169,500/Each Year FY23-24 through FY26-27
$113,000/FY27-28
$56,500/FY28-29

Assumptions:

General Assumptions:

- According to the proposed legislation, a stated "best interest of the state" is required for this tax credit.
- "Best interests of the state" as defined in the applicable Tenn. Code Ann. § 67-4-2109(a)(1) means: "a determination by the Commissioner of Revenue and the Commissioner of Economic and Community Development that the capital investment or jobs are a result of the credit provided in this section."
- It is the interpretation of the Fiscal Review Committee staff that, should DOR enforce the "best interests of the state", that the credits provided as a result of this proposed legislation would be foregone revenue, because these investments would not occur without the credits, as put forth in the proposed legislation.
- The average combined F&E tax liability of qualifying business enterprises is estimated to be approximately $22,600. Job tax credits may be used to offset up to 50 percent of

total F&E tax liability, or an average of $11,300 per business enterprise per year ($22,600 x 50%).

Decreasing capital investment from $500,000 to $100,000:

- Based on information provided by the Department of Revenue (DOR), this section of the proposed legislation is estimated to affect three taxpayers a year.
- The four-year average of the annual tax credit provided per taxpayer in an adventure tourism district is $68,531 for businesses meeting the $500,000 threshold.
- The five businesses making capital investments between $100,000 and $500,000 that will now qualify for the tax credit are expected to average a tax credit equal to half of the current average, or $34,266 ($68,531 / 2).
- However, it is estimated that only $11,300 in tax credits can be utilized on average by qualified businesses, with the remainder of the credits carried over.
- The foregone state revenue in FY21-22 is estimated to be $33,900 (3 businesses x $11,300).
- In FY22-23 the impact on revenue is estimated to be the sum of the remainder of the previous year’s credit recipients as well as the new FY22-23 credit recipients. Therefore, the foregone state revenue in FY22-23 is estimated to be $67,800 (6 businesses x $11,300).
- In each FY23-24 to FY26-27 the estimated foregone state tax revenue will be $101,700 (9 businesses x $11,300).
- The remaining balance of tax credits for taxpayers who are four years out from receiving the credit is estimated to be minimal.
- It is estimated that the tax credits earned before the termination of these parameters on July 1, 2027 will decrease in the same manner.
- For FY27-28 foregone state tax revenue of $67,800 (6 businesses x $11,300), $33,900 (3 businesses x $11,300) in FY28-29, and no tax credits left to be used by businesses in FY29-30 and subsequent years.

Decreasing job requirements for tier 3 and tier 4 enhancement counties:

- Based on information provided by the Department of Revenue (DOR), this section of the proposed legislation is estimated to affect two taxpayers a year.
- It is estimated that $11,300 in tax credits can be utilized on average by qualified businesses, with the remainder of the credits carried over.
- The foregone state revenue in FY21-22 is estimated to be $22,600 (2 businesses x $11,300).
- In FY21-22 the impact on revenue is estimated to be the sum of the remainder of the previous year’s credit recipients as well as the new FY21-22 credit recipients. Therefore, the foregone state revenue in FY22-23 is estimated to be $45,200 (4 businesses x $11,300).
- In each FY23-24 to FY26-27 the estimated foregone state tax revenue will be $67,800 (6 businesses x $11,300).

- The remaining balance of tax credits for taxpayers who are four years out from receiving the credit is estimated to be minimal.
- It is estimated that the tax credits earned before the termination of these parameters on July 1, 2027 will decrease in the same manner.
- For FY27-28 foregone state tax revenue of $45,200 (4 businesses x $11,300), $22,600 (2 businesses x $11,300) in FY28-29, and no tax credits left to be used by businesses from the proposed legislation in FY29-30 and subsequent years.

Total Impact:

- The total foregone state revenue will be $56,500 ($33,900 + $22,600) in FY21-22, $113,000 ($67,800 + $45,200) in FY22-23, $169,500 ($101,700 + $67,800) in each FY23-24 to FY26-27, $113,000 ($67,800 + $45,200) in FY27-28, $56,500 ($33,900 + $22,600) in FY28-29, and no foregone state revenue in FY29-30 and subsequent years, upon the termination of these tax credit parameters.

IMPACT TO COMMERCE:

Business Cost Avoidance - $56,500/FY21-22
$113,000/FY22-23
$169,500/Each Year FY23-24 through FY26-27
$113,000/FY27-28
$56,500/FY28-29

Jobs Created – Exceeds 30/FY21-22 and Subsequent Years

Assumptions:

- The businesses that make capital investments and create jobs as a result of this proposed legislation would realize a corresponding business cost avoidance equal to the total amount of credits used per fiscal year as estimated above; therefore, the total decrease in business expenditures will be $56,500 ($33,900 + $22,600) in FY21-22, $113,000 ($67,800 + $45,200) in FY22-23, $169,500 ($101,700 + $67,800) in each FY23-24 to FY26-27, $113,000 ($67,800 + $45,200) in FY27-28, $56,500 ($33,900 + $22,600) in FY28-29, and no impact in FY29-30 and subsequent years, upon the termination of these tax credit parameters.
- Furthermore, decreasing the required number of jobs created is estimated to bring in a total of six businesses with at least five jobs each, creating a total of 30 additional jobs (6 businesses x 5 jobs) in Tennessee as a result of this proposed legislation. It is assumed that creation of such jobs will remain into perpetuity.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

Krista Lee Carsner

Krista Lee Carsner, Executive Director

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